



May 28, 2002

**BY FAX**

Ms. Fran Miglinorino  
Governor's Economic Development Representative  
Ohio Department of Development  
615 W. Superior Ave., 12<sup>th</sup> Floor  
Cleveland, OH 44113-1187

Mr. Kevin Schmotzer  
Department of Economic Development  
City of Cleveland  
601 Lakeside Avenue, Room 201  
Cleveland, OH 44114

Re: Master Metals Site, Cleveland, Ohio

Dear Ms. Miglinorino and Mr. Schmotzer:

I am writing on behalf of NL Industries, Inc. (NL) in connection with the proposed project at 2850 West Third Street, Cleveland, Ohio. Counsel for Brett-Zanick and NOLCTO (collectively, NOLCTO) has insisted that NOLCTO's \$25,000 reimbursement obligation to NL be conditioned on NL first receiving \$25,000 each from the City and State, respectively. (See paragraph 1 of the proposed NL/NOLTOC agreement attached hereto.) As a result, NL will need a binding, enforceable commitment from both the City and the State to pay NL these funds before we can complete the proposed agreement with NOLCTO. Perhaps the easiest way to resolve this issue is for the City and the State to become parties to the attached draft agreement. However, we are open to other ways to reach a resolution of this issue.

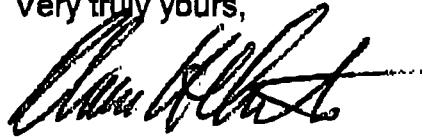
We note that based on our review of certain information it appears that the City/State funds apparently are in the form of grants to NOLCTO (not to NL) which may have expired or which may contain conditions over which NOLCTO (but not NL) has exclusive control. Our understanding and position is that upon satisfaction of the cleanup work undertaken and costs incurred under proposed paragraph 1, NL is entitled to payment of \$25,000 each from NOLCTO, the City and the State regardless of the source of the funds, regardless of whether another party fails to pay NL, and without conditions relating to NOLCTO's business and future operations at the property. Please confirm that our understanding is correct on this issue since NL will not be able to move forward



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to execute the EPA's proposed ACO without this issue resolved as we understand it.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marcus A. Martin", with a horizontal line extending from the end of the signature.

Marcus A. Martin

cc: Terry S. Casey (w/o attmt.)  
David S. Hoffman (w/o attmt.)

5/29/02  
**DRAFT**

## AGREEMENT

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2002 between NL Industries, Inc. ("NL"), Bredt-Zanick LLC ("BZ"), and the Northern Ohio Lumber & Timber Co. ("NOLTCO") regarding the former Master Metals, Inc. property located at 2850 West Third Street, Cleveland, Ohio ("Site") (A map depicting the Site is attached as Exhibit A).

WHEREAS, NL is the former owner of the Site;

WHEREAS, BZ is an Ohio limited liability corporation and is the owner of the Site;

WHEREAS, NOLTCO is an Ohio corporation which sells lumber and timber to commercial and retail clients and will be leasing the Site from BZ;

WHEREAS, BZ and NOLTCO have executed a Prospective Purchaser Agreement ("PPA") with U.S. EPA, which will provide limited liability protection to BZ and NOLTCO from historic contamination on the Site. A copy of the PPA is attached as Exhibit B.

WHEREAS, BZ and NOLTCO have agreed to perform post-closure operation and maintenance ("O&M") at the Site and to use the Site exclusively for the purpose of operating NOLTCO's lumber business in order to secure NL's commitments herein;

WHEREAS, NL and certain other named respondents (collectively, "Respondents") implemented an Administrative Order on Consent, Docket No. V-W-97-C-402 ("AOC I") under 42 U.S.C. §9606 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") pursuant to which the respondents performed a removal action and engineering evaluation and cost analysis ("EECA") at the Site;

WHEREAS, the Respondents are also signatories to the Administrative Order on Consent, Docket No. \_\_\_\_\_ ("AOC II") pursuant to which the Respondents will pay for and implement the work described in U.S. EPA's Action Memorandum dated September 30, 1999, as amended by U.S. EPA's Action Memorandum dated September 22, 2000 ("Work") (the Amended Action Memorandum is hereinafter referred to as the "Amended AM") (Copies of each of the foregoing are attached as Exhibit C (AOC II), Exhibit D (September 30, 1999 Action Memorandum) and Exhibit E (September 22, 2000 Action Memorandum), respectively);

WHEREAS, the Amended AM changed the original removal action selected for the Site from, among other changes, a soil and vegetative cap to an asphalt cap in order to facilitate the reuse of the Site by NOLTCO for its business and increased the overall cost of the remedy, including post-closure O&M;

WHEREAS, NL has retained ENTACT, an environmental remediation contractor who has offered a lump sum contract to perform the Work (excluding post-closure O&M) (A copy of ENTACT's proposal is attached as Exhibit F);

WHEREAS, NL, BZ and NOLTCO desire to cooperate in the implementation of, and payment for, the Work and to set forth their respective responsibilities regarding the Work;